

§ 241.9

49 CFR Ch. II (10–1–07 Edition)

the absence of established safety requirements, that the programs are satisfactory to the agency.

(3) Except as otherwise approved by FRA, fringe border dispatching must comply with the following requirements:

(i) The trackage in the United States being extraterritorially dispatched shall not exceed the following route miles, measured from the point that the trackage crosses the United States border:

(A) For operations conducted pursuant to the regulations contained in 49 CFR part 241, revised as of October 1, 2002, the route miles shall be the miles normally operated by the railroad in conducting the operation; and

(B) For all other operations, the route miles shall not exceed five miles.

(ii) Except for unforeseen circumstances such as equipment failure, accident, casualty, or incapacitation of a crew member, each extraterritorially dispatched train shall be under the control of the same assigned crew for the entire trip over the extraterritorially dispatched trackage.

(iii) The fringe border dispatcher shall communicate instructions to the train crew and maintenance of way employees working on the line in the English language and, when referencing units of measurement, shall use English units of measurement.

(iv) The rail line shall be under the exclusive control of a single dispatching district or desk; and

(v) The dispatching of the train shall be transferred from the fringe border dispatcher to a dispatcher located in the United States at one of the following locations within the mileage limits mandated in paragraph (c)(3)(i) of this section:

(A) Interchange point;

(B) Signal control point;

(C) Junction of two rail lines;

(D) Established crew change point;

(E) Yard or yard limits location;

(F) Inspection point for U.S. Customs, Immigration and Naturalization Service, Department of Agriculture, or other governmental inspection; or

(G) Location where there is a change in the method of train operations.

§ 241.9 Prohibition against extraterritorial dispatching; exceptions.

(a) *General.* Except as provided in § 241.7(d) and paragraphs (b) and (c) of this section, a railroad subject to this part shall not require or permit a dispatcher located outside the United States to dispatch a railroad operation that occurs in the United States if the dispatcher is employed by the railroad or by a contractor to the railroad.

(b) *Transitional period to continue existing extraterritorial dispatching.* A railroad that has normally extraterritorially dispatched railroad track in the United States from Canada or Mexico pursuant to the regulations contained in 49 CFR part 241, revised as of October 1, 2002, may continue extraterritorial dispatching of that railroad track until April 10, 2003, to permit the railroad an opportunity to file a waiver request pursuant to § 241.7.

(c) *Emergencies.* (1) In an emergency situation, a railroad may require or permit one of its dispatchers located outside the United States to dispatch a railroad operation that occurs in the United States, provided that:

(i) The dispatching railroad notifies the FRA Regional Administrator of each FRA region where the railroad operation was conducted, in writing as soon as practicable, of the emergency; and

(ii) The extraterritorial dispatching is limited to the duration of the emergency.

(2) Written notification may be made either on paper or by electronic mail.

(3) A list of the States that make up the FRA regions and the street and e-mail addresses and fax numbers of the FRA Regional Administrators appears in appendix C to this part.

(d) *Liability.* The Administrator may hold either the railroad that employs the dispatcher or the railroad contractor that employs the dispatcher, or both, responsible for compliance with this section and subject to civil penalties under § 241.15.